

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

VALERIA CORBIN, administrator of the	:	
ESTATE OF JOSHUA PATTERSON,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	Case No. 23-2784
v.	:	
	:	JURY TRIAL DEMANDED
BUCKS COUNTY, et al.,	:	
	:	
Defendants.	:	

**DEFENDANTS JULIO ATILES AND STEPHANIE ULMER’S SEALED STATEMENT
OF UNDISPUTED MATERIAL FACTS**

In accordance with the Court’s Policies and Procedures, Defendants Julio Atiles and Stephanie Ulmer, by and through their undersigned counsel, respectfully submit this Statement of Undisputed Material Facts in support of their Motion for Summary Judgment:

A. BCCF’s Reception Unit and Reception Officer Duties

1. New commitments to the Bucks County Correctional Facility (“BCCF”) are received in the “Reception Unit” prior to entering main facility. JA011; JA023.

2. This unit is staffed by “Reception Unit Officers” who are responsible for “processing new commitments, discharges, institutional transfers and court returns without unnecessary delay ...” JA011.

3. Reception Unit Officer duties include, among others, pat and unclothed full body searches new commitments. JA012; JA015-16.

4. In conducting these searches, Reception Unit Officers are guided by Bucks County Department of Corrections Standard Operating Procedures and Guidelines § B-4.20. JA014.

5. Reception Unit Officers, [REDACTED]
[REDACTED] JA016.

6. [REDACTED]
[REDACTED]
[REDACTED] JA016.

7. Reception Officers are also responsible for gathering and recording demographic information regarding a new commitment. JA012.

8. This includes information regarding the commitment's "[REDACTED]
[REDACTED]," including "[REDACTED]." JA027.

9. New commitments also undergo a "[REDACTED]" with BCCF's "[REDACTED]
[REDACTED]," JA025, and an interview with a "[REDACTED]," JA028.

10. These processes also cover the [REDACTED] "[REDACTED]
[REDACTED]," JA025, and make "[REDACTED]," JA028.

11. A new commitment's responses to these evaluations are logged in BCCF's "Offender Management System" by the Reception Officer, intake case manager, and intake nurse at the time of the inmate's processing and commitment to the facility. JA194.

12. From 2017 through July 26, 2022, the Reception Unit processed "34,463 new commitments." JA196.

13. During this period, Reception Officers recovered narcotics and related paraphernalia on "67 occasions." JA196.

14. There were only two instances in which narcotics evaded BCCF's contraband detection measures and were recovered from the inmate's cell after their commitment. JA196.

15. In both instances, the inmates ingested or “tucked” the drugs in a body cavity prior to their arrival at BCCF. JA196; JA198-99 (contraband found with “condom under the cell sink” in a cell that had a “strong odor of fecal matter in the air” and a note that read “IN MY ASS”); JA201 (“Sullivan further explained that during the booking process (in BCCF reception), he concealed the contraband by ‘tucking’ it during the unclothed body search.”).

16. Neither Officer Atilas nor Ulmer were involved in or aware of these incidents. JA198 (listing inmates and corrections staff involved); JA201-203 (discussing inmates and corrections staff involved); JA149 (“Q. Are you familiar with another inmate named Quin that’s accused of – had been accused of smuggling narcotics into the prison.” A. No, sir. Q. And another inmate named Sullivan who’s accused of smuggling narcotics into the prison? A. No, sir.”).

B. Three Other Law Enforcement Agencies Do Not Find any Fentanyl or Methamphetamines on Rhoades’ Person

17. On July 25, 2022, Allen Rhoades was a passenger in a traffic stop conducted by the Pennsylvania State Police (“PSP”). JA071.

18. During the traffic stop, Rhoades hid fentanyl and methamphetamine in his pants. JA071.

19. After drugs were located throughout the vehicle, Rhoades and the other occupants of the vehicle, were arrested. JA046.

20. The arresting officer transported Rhoades and the others to the PSP barracks in Trevoise, Pennsylvania. JA046.

21. While in the PSP’s custody, the arresting officer learned that Rhoades also had an active arrest warrant issued by the Falls Township Police Department. JA046.

22. After receiving notice of Rhoades’ arrest, the Falls Township Police Department picked him up and transported him to their station. JA046.

23. Rhoades was later arraigned, issued bail, and transported to BCCF by two Pennsylvania State Constables. JA047.

24. Despite Rhoades having been in the custody of three different agencies before arriving at BCCF, none of these law enforcement agencies detected or found any narcotics on Rhoades' person. JA045-046; JA122 (“[H]e should have been searched and then he’s searched again by us.”).

C. Rhoades Thwarts BCCF’s Search Procedure Using a Lunch Bag that he Opportunistically Retrieves During a BCCF Officer Emergency

25. At around 6:30 a.m. on July 26, 2022, Rhoades arrived in BCCF’s Reception Unit. JA044.

26. Officers Julio Atilas, Stephanie Ulmer, and Thomas Fabiani were on duty as Reception Officers at the time. JA044; JA206 (Officer Ulmer; “ I worked in reception on July 25 and July 26, 2022”); JA207-08 (Officer Atilas; “I was working in reception on the specified dates”); JA101-05 (confirming Officer Fabiani “was there” on video and his role was “in the back, the back room, which is dealing with property and everything).

27. Upon Rhoades’ entry with the two Constables, Officer Atilas conducted a clothed pat search of Rhoades and placed him in Holding Cell #1. JA044; JA072; Joint Ex. 1.

28. Approximately 13 minutes later, Rhoades received a brown lunch bag. JA044; Joint Ex. 3, at 8:37.

29. Two minutes after receiving the bag, Rhoades turns his back to the Holding Cell’s camera, appears to remove the plastic wrap from his sandwich, removes something from the crotch of his pants, and hides it in the lunch bag. Joint Ex. 3, at 11:12; JA044; JA072 (“Allen RHOADES admitted that he smuggled the Fentanyl and methamphetamine in the sandwich wrapper, then placed the drugs inside of the brown food bag.”).

30. The transfer from Rhoades' person to the lunch bag takes less than a minute. Joint Ex. 3, at 11:15-12:14.

31. From approximately 7:44 a.m. through 9:31 a.m., Rhoades completes his intake process. JA044.

32. He does so while in possession of his lunch bag. JA044.

33. During this time, Rhoades answers booking questions from Officer Atilas, provides a urinary sample to Officer Fabiani, meets with the intake nurse, and has an initial assessment with a case manager. JA044.

34. The case manager then returns Rhoades to Holding Cell #1. JA044.

35. At 9:37 a.m., Officer Ulmer removes Rhoades from Holding Cell #1. JA044; Joint Ex. 4, at 0:11-0:25, 1:10-4:50, 9:20-10:50.

36. Rhoades leaves the holding cell without the lunch bag this time. JA044; Joint Ex. 4, at 0:11-0:25.

37. Although Officer Ulmer pushes the door to Holding Cell #1 closed, the door pushes back open after her back is turned and remains slightly ajar. Joint Ex. 4, at 0:24-0:27.

38. There are no other inmates in the cell at this time. Joint Ex. 4, at 0:11-0:25.

39. Officer Ulmer proceeds to fingerprint Rhoades and provide him with his wristband. Joint Ex. 4, at 0:11-0:25, 1:10-4:50, 9:20-10:50.

40. This is the only interaction Officer Ulmer has with Rhoades. Joint Ex. 1; Joint Ex. 4, at 0:00-10:50; JA044-45 (investigative report explaining Officer Ulmer removes Mr. Rhoades and "fingerprints" him); JA093 (Officer Ulmer stating that she "booked him" and that she was not involved in searching him because she is "a female" and "can't do anything with a male inmate."); JA0127 (Officer Atilas stating "I have to search the men. My partner would search any of the

females that would c[o]me in”); JA210 (“I was the female officer working in reception when A. Rhodes was booked. I asked A. Rhoades questions, which he answered and that was it.”).

41. Afterward, Rhoades heads off camera with Officer Atilas where he receives an unclothed body search. Joint Ex. 4, at 10:50; JA045.

42. Officer Atilas first searched each piece of clothing Rhoades was wearing “one piece of clothing at a time.” JA130; JA151 (“Q. Let’s talk about it [the search] as it relates to Rhoades. When you conducted that search, did you search the clothing that he took off? A. Yes.”).

43. Officer Atilas then conducted a complete search of Rhoades’ unclothed body, looking into his mouth, behind his ears, under his arms, under his private area, under his feet, and having him spread his butt cheeks and cough three times. JA130-32 (“Once the clothes are searched, we ... give them instructions to looking into their mouth, turn their heads, looking behind their ears, looking at their arms, lifting up their private area, lifting up their feet, turn around, spreading their cheeks, giving us three coughs. We have to look at all that.”).

44. Officer Atilas did not locate any contraband on Rhoades as he had left the lunch bag containing the methamphetamine and fentanyl in Holding Cell #1. Joint Ex. 4, at 10:40-10:59; JA132; JA151-52 (“Q. And did you find anything in his clothing? A. No, sir.”); JA155-56 (“Q.... And so it’s fair to say that he did not have the lunch bag with him when he conducted the unclothed body search? Is that correct? A. Yes.”)

45. During this time, Officer Ulmer continued her duties in the main area of the Reception Unit. Joint Ex. 4, at 10:50-13:40.

46. Officer Fabiani was in the Reception Unit’s backroom dealing with property. JA105.

47. An “emergency” “Code 99 – officer needs assistance” alarm, however, was called on the nearby female housing module. JA094 (“Q. So, when Mr. Rhoades was being searched by Officer Atilas, where were you? A. Responding to a code 99 on a different block.”); JA056; Joint Ex. 4, at 13:23-13:32 (Officer Ulmer running out of the Reception Unit doorway).

48. Consistent with prior practice, Officer Ulmer immediately responded to the emergent situation, leaving Officers Atilas and Fabiani in the Reception Unit. Joint Ex. 4, at 13:23-13:32; JA95: JA105.

49. Officer Ulmer attempted to notify Officers Atilas and Fabiani of her response before she ran out the Reception Unit door toward the housing module. JA103 (“Q. So, if you look there, you’ll kind of notice that you were peeking out, looked back again, and then looks like you ran off camera. Would that be you responding to the code 99 that you referenced earlier? A. Yes. I probably popped my head out and popped my head back in to tell them I was going, just so they knew.”).

50. Officer Atilas, however, did not hear Officer Ulmer. JA133 (“She wasn’t there at that moment. I didn’t know she wasn’t there until after I watched the video.”).

51. But for responding to the Code 99, an emergency over which she had no control, Officer Ulmer would have been in reception. JA103-04 (“Q. Okay. But for responding to that code 99, you would have been in reception, correct? A. Yes.”).

52. Believing Officer Ulmer was in the Reception Unit’s main area, Officer Atilas directed Rhoades to go to Holding Cell #6 in the main area. JA133 (“She wasn’t there at that moment. I didn’t know she wasn’t there until after I watched the video.”).

53. Officer Atilas remained in the back “putting away [Rhoades’] property.” JA133.

54. Rhoades returned to the Reception Unit's main area in a yellow jumpsuit with a laundry bag containing his BCCF-issued clothing. Joint Ex. 4, at 14:19.

55. Noticing that Officer Ulmer is not in the Reception Unit, Rhoades drops his laundry bag at Holding Cell #6. Joint Ex. 4, at 14:23-15:00.

56. Instead of stopping, Rhoades proceeds to Holding Cell #1, retrieves his lunch bag, and hides it in his laundry bag. Joint Ex. 4, at 14:23-15:00.

57. Rhoades completes these actions in less than 40 seconds. Joint Ex. 4, at 14:23-15:00.

58. Officer Atilas returns to the main area where Rhoades is standing in front of Holding Cell #6 as directed. Joint Ex. 4, at 15:01.

59. Officer Atilas then removes an inmate from Holding Cell #6 and escorts Rhoades to the main facility where he is housed on Alpha Module in Housing Cell #1. Joint Ex. 4, at 15:21-15:49; JA045.

60. This is the last interaction Officer Atilas has with Rhoades. JA045; JA210 ("In reception, I gave A. Rhoades a pat down search and an unclothed body search. After the unclothed body search, I directed A. Rhoades to go to Holding Cell No. 6.").

61. During Mr. Rhoades' time in reception, neither Officer Atilas nor Officer Ulmer knew or had any indication that Mr. Rhoades was in possession of methamphetamines or fentanyl. JA132-33 ("Yes, I did hear about that later on, yes ... I was informed of a gentleman bringing in drugs and when I inquired on who was the gentlemen, what date did it happen[], they told me the date that it happened. I'm like, wait a minute, I was in intake that day. So how could it possibly happen?"); JA097 ("Q.... [D]id you later learn that Inmate Rhoades was able to bring narcotics into the prison during that shift? A. Not that day. I learned about it maybe a day after, two days

after”; “Q. Do you think he did not bring narcotics into the prison during the shift when you were working that day? A. I’m not sure. I don’t recall seeing it.”); JA100 (“I don’t know what happened. I wasn’t there for it.”).

D. Patterson is Housed on Alpha Module and Not Known to Have Any History of Drug or Alcohol Use

62. At the time Rhoades was committed to BCCF, Patterson was housed on Alpha Module in Housing Cell #39. JA036.

63. Patterson had been committed to BCCF on November 26, 2021, after being arrested on an outstanding “Felony Retail Theft charge from Warrington Township Police Department.” JA036.

64. He was also being held “Felony Retail Theft charges from Brookhaven Police in Delaware County, Pennsylvania.” JA036.

65. He was presently on “administrative lock” with a “keep separate” order for fighting. JA034-36.

66. Patterson had no other active alerts or special flags on his file, including relating to drug use. JA034-36; JA193-95; *Compare* JA034-36 (active alerts for Patterson) *with* JA042-43 (active alerts for Rhoades).

67. In fact, Rhoades’ booking and commitment information logged in BCCF’s “Offender Management System” showed that he: (i) never disclosed any history of drug or alcohol use; (ii) never disclosed any detoxification or withdrawal symptoms; and (iii) was never referred to, evaluated for, or participated in BCCF’s “medically assisted treatment” (“MAT”) program, which offers inmates suffering from opioid use disorder the opportunity to participate in opioid replacement therapy administered by BCCF’s medical contractor – PrimeCare, Inc. JA193-95.

68. In the MAT program, medical staff provide inmates with either Vivitrol (naltrexone) or Subutex (buprenorphine) to assist with opioid detoxification. JA182-83 (“The following statistics represent the core activities of the Drug and Alcohol Treatment Section for the month of July”; discussing administration and treatment of inmates with “Vivitrol” and “Subutex”).

69. Neither Officer Atilas nor Officer Ulmer had any interaction with Patterson. JA209 (“Please describe the contact you had with the inmate [Patterson]”; “Officer Ulmer – None”; “Officer Atilas – None”).

E. Rhoades Delivers Fentanyl to Patterson using an Intermediary

70. Rhoades arrived on Alpha Module at approximately 10:00 a.m. JA045.

71. Between 2:00 p.m. and 3:38 p.m., Rhoades along with Mallet Clark, a “block worker” on Alpha Module who served as a go-between for Rhoades and Patterson, stopped at Patterson’s housing cell “multiple times.” JA073-74.

72. Some of these meetings were “just verbal,” but others involved the exchange of items. JA074.

73. For example, Clark “would retrieve what was believed to be notes, deliver and retrieve tablets, and assist with hot water for food for Patterson.” JA074.

74. At approximately 3:33 p.m., Rhoades delivered an item to Patterson by sliding it underneath his locked cell door, which is believed to be fentanyl. JA075.

F. Rhoades’ Contraband is Seized Mere Hours After his Arrival

75. After becoming suspicious of Rhoades’ behavior and being informed by another inmate that Rhoades may have contraband in his cell, Officer Ventureira (one of two on-duty Module Officers) conducted a search of Housing Cell #1. JA045.

76. During the search, Officer Ventureira located a “coffee bag hidden in a brown paper bag, containing a plastic wrapped package consisting of numerous zip lock baggies with blue wax paper, and yellow and red zip lock baggies containing a white crystal powder.” JA074.

77. The “coffee bag” was a “yellow coffee packet” that Clark had purchased for Rhoades. JA074; JA072 (stating Clark “deliver[ed] soda, coffee, headphones, and a tablet” to Rhoades); JA048 (“CLARK goes directly to A1 ... Yellow Packet in left hand.”); JA083 (noting that Rhoades delivered drugs in exchange for, among other items, “coffee”).

78. The bag was immediately seized, and Rhoades was removed from Alpha Module. JA045; JA055; JA056.

79. Rhoades received a misconduct report and BCCF’s investigations unit was notified. JA060 (misconduct report); JA054 (“Investigations has been notified”).

80. The packages recovered were later provided to NMS Labs for testing. JA057-59.

81. NMS Labs determined that the packages contained 4-ANPP (a Drug Enforcement Agency Schedule II Substance), acetyl fentanyl (a Pennsylvania Schedule I substance), fentanyl (a Pennsylvania Schedule I substance), and methamphetamine (a Pennsylvania Schedule II substance). JA057-59.

G. Patterson is Found Unresponsive in His Cell After Ingesting the Fentanyl he Received from Rhoades

82. At approximately 3:40 a.m. on July 27, 2022, Patterson was found unresponsive in his cell by the on-duty module officer – Officer Connor Wilcox. JA037.

83. On his scheduled tour of the Module, Officer Wilcox noticed Patterson lying on the floor of his cell. JA040.

84. Prior to this, Officer Wilcox had observed Patterson singing and dancing. JA040.

85. Officer Wilcox knocked on the cell door, but Patterson did not respond. JA040.

86. Officer Wilcox then opened Patterson's cell door and yelled his name. JA040.
87. Patterson did not respond again. JA040.
88. Officer Wilcox immediately pulled the pin on his body alarm, activating a Code 99 emergency (the same emergency code Officer Ulmer had responded to earlier). JA040.
89. Officer Wilcox removed Patterson to the upper-tier balcony and began administering CPR until he was relieved. JA040.
90. Patterson was transferred to Doylestown Hospital where he was placed in a medically induced coma. JA036.
91. Patterson was kept medically alive until August 1, 2022, when the hospital discontinued medical efforts. JA037.
92. The Bucks County Coroner's Office conducted an autopsy, concluding Patterson's death was "accidental" and caused by "complications from fentanyl intoxication." JA041.
93. Following Patterson's death, Rhoades was criminally prosecuted for, among other offenses, drug delivery resulting in death. JA063.
94. Patterson's death was "the first death involving the use of narcotics inside of [BCCF] in the last ten years." JA197.

Respectfully submitted,

Date: April 10, 2023

BUCKS COUNTY LAW DEPARTMENT

/s/ Jaclyn C. Grieser
Jaclyn C. Grieser (No. 93358)
Deputy County Solicitor

/s/ Tyler B. Burns
Tyler B. Burns (No. 325660)
Assistant County Solicitor

*Attorneys for Julio Atilas and Stephanie
Ulmer*